



**SUPREME COURT OF CALIFORNIA  
ORAL ARGUMENT CALENDAR  
LOS ANGELES SESSION  
OCTOBER 6, 2009**

**(FIRST AMENDED)**

The following cases are placed upon the calendar of the Supreme Court for hearing at its courtroom in the Ronald Reagan State Office Building, 300 South Spring Street, Third Floor, North Tower, Los Angeles, California on October 6, 2009.

**TUESDAY, OCTOBER 6, 2009—9:00 A.M.**

- (1) S157341 Lexin et al. v. Superior Court of San Diego County  
(The People, Real Party in Interest) [*To be called and continued to  
November 2009 calendar*]
- (2) S156598 Brown, Winfield & Canzoneri, Inc. v. Superior Court of Los  
Angeles County (Great American Ins. Co., Real Party in Interest)
- (3) S155556 In re Phoenix H. et al.
- (4) S054372 People v. Ervine (Dennis) [Automatic Appeal]

**1:30 P.M.**

- (5) S166894 People v. Johnson (Timothy)
- (6) S068230 People v. Butler (Raymond Oscar) [Automatic Appeal]
- (7) S054774 People v. Taylor (Keith Desmond) [Automatic Appeal]

GEORGE  
*Chief Justice*

If exhibits are to be transmitted to this court, counsel must apply to the court for permission. (See Cal. Rules of Court, rule 8.224(c).)

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The following case summaries are issued to inform the public and the press of cases that the Supreme Court has scheduled for oral argument and of their general subject matter. Generally, the descriptions set out below are reproduced from the original news release issued when review in each of these matters was granted and are provided for the convenience of the public and the press. The descriptions do not necessarily reflect the view of the court or define the specific issues that will be addressed by the court.

**TUESDAY, OCTOBER 6, 2009—9:00 A.M.**

**(1) *Lexin et al. v. Superior Court of San Diego County (The People, Real Party in Interest)*, S157341 [To be called and continued to November 2009 calendar]**

#07-445 Lexin et al. v. Superior Court of San Diego County (The People, Real Party in Interest), S157341. (D049251; 154 Cal.App.4th 1425; Superior Court of San Diego County; SCD190930.) Petition for review after the Court of Appeal denied a petition for peremptory writ of mandate. This case presents the following issue: Did petitioners' service on the Board of the San Diego Retirement System, as it related to an increase in pension benefits for members of the system, violate the conflict of interest provisions of Government Code section 1090 and subject them to criminal prosecution, or did the non-interest exemption of Government Code section 1091.5, subdivision (a)(9) apply?

**(2) *Brown, Winfield & Canzoneri, Inc. v. Superior Court of Los Angeles County (Great American Ins. Co., Real Party in Interest)*, S156598**

#07-455 (2) Brown, Winfield & Canzoneri, Inc. v. Superior Court of Los Angeles County (Great American Ins. Co., Real Party in Interest), S156598. (B201396; nonpublished order; Superior Court of Los Angeles County; BC331601.) Petition for review after the Court of Appeal issued an order regarding a petition for peremptory writ of mandate. The court limited review to the following issues: (1) May a Court of Appeal issue a "suggestive *Palma* notice" (see *Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171) — that is, a notice that discusses the merits of a writ petition with citation to

authority, determines that the trial court ruling was “erroneous,” and gives the trial court the “power and jurisdiction” to change its order? (2) If such an order is proper, absent exceptional circumstances, may it be issued without giving the real party in interest an opportunity to file opposition?

**(3) *In re Phoenix H. et al.*, S155556**

#07-414 *In re Phoenix H. et al.*, S155556. (D050304; 152 Cal.App.4th 1576; Superior Court of San Diego County; SJ11392.) Petition for review after the Court of Appeal dismissed an appeal from an order terminating parental rights. This case presents the following issue: When appointed counsel for a parent whose custody rights have been adversely affected by state-initiated action files a brief in the Court of Appeal that presents no arguable claim of error, does the parent, acting in propria persona, have the right to submit a supplemental brief?

**(4) *People v. Ervine (Dennis)*, S054372 [Automatic Appeal]**

This matter is an automatic appeal from a judgment of death.

**1:30 P.M.**

**(5) *People v. Johnson (Timothy)*, S166894**

#08-167 *People v. Johnson (Timothy)*, S166894. (H031095; nonpublished opinion; Superior Court of Santa Clara County; CC619063.) Petition for review after the Court of Appeal dismissed an appeal from a judgment of conviction of criminal offenses. This case presents the following issue: Is a certificate of probable cause a prerequisite to an appeal claiming ineffective assistance of counsel for failure to assist a client in a motion to withdraw a plea?

**(6) *People v. Butler (Raymond Oscar)*, S068230 [Automatic Appeal]**

This matter is an automatic appeal from a judgment of death.

**(7) *People v. Taylor (Keith Desmond)*, S054774 [Automatic Appeal]**

This matter is an automatic appeal from a judgment of death.